

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID McCLOY,

Plaintiff,

v.

Case Number 07-13839

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

CORRECTION MEDICAL SERVICES
LAFLER, RIVARD, WASHINGTON,
DOVE, PATTON, AMY BURTON, DIANE
TEMPLE, WILKENS, TROMBLEY,
THOMSON, and MORRIS

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DENYING MOTION TO DISMISS

Presently before the Court is the report issued on December 18, 2008, by Magistrate Judge Michael Hluchaniuk pursuant to 28 U.S.C. § 636(b) recommending that this Court deny the defendants' motion to dismiss for failure to prosecute. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 99] is **ADOPTED**.

It is further **ORDERED** that the defendants' motion to dismiss [dkt. #74] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 27, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 27, 2009.

s/Felicia M. Moses
FELICIA M. MOSES